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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,552

09/30/2003

Vesselin G. Manev

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EXAMINER

MARTIN, ANGELA J

ART UNIT

PAPER NUMBER

1745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/675,552	<b>Applicant(s)</b> MANEV ET AL.	
	<b>Examiner</b> Angela J. Martin	<b>Art Unit</b> 1745	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 16-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/30/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 16-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/30/06.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li, U.S. Pat. No. 6,881,652 B1, in view of Chiang et al., U.S. Pat. No. 6,787,232 B1.

Rejection of claims 1-15 drawn to a method for preparing a positive electrode material.

Li teaches a method for preparing a positive electrode material for use in a cell of a lithium, lithium-ion or lithium-ion polymer battery (col. 2, lines 29-34), the method comprising subjecting a lithiated transition metal oxide positive electrode material having one or more water-containing compounds therein to a treatment prior to preparing said cell to convert at least a portion of the water-containing compounds to one or more water-free compounds (col. 6, lines 52-58), wherein the treatment includes the following: (a) exposing the positive electrode material at a

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temperature of 0-650.degree C (col. 6, lines 57-58) to a CO.sub.2-containing gas; and (b) heating the positive electrode material to a temperature of at least 250.degree C in the presence of an oxygen-containing gas (col. 6, lines 57-60). The method of claim 1 wherein the one or more water-containing compounds are selected from the group consisting of LiOH, Ni(OH).sub.2 (col. 6, lines 35-40) and the one or more water-free compounds are selected from the group consisting of LiNiO.sub.2 (col. 8, lines 28-32). The method of claim 1 wherein the one or more water-containing compounds are selected from the group consisting of a lithium hydroxide, a transition metal hydroxide (col. 6, lines 35-38). The method of claim 6 wherein the oxygen-containing gas of treatment (b) is air. The method of claim 1 wherein the oxygen-containing gas of treatment (b) is air (col. 6, lines 57-60). The method of claim 1 wherein the positive electrode material is subjected to treatment (a) at a temperature of 100-400.degree C (col. 6, lines 57-58). The method of claim 1 wherein the positive electrode material is subjected to treatment (b) at a temperature of 250-650.degree C (col. 6, lines 57-60). The method of claim 1 wherein the positive electrode material is subjected first to treatment (a), then to treatment (b) (col. 6, lines 50-60). The method of claim 1 wherein the positive electrode material is subjected to treatment (b) immediately prior to preparing said cell (col. 7, lines 5-26).

Li does not teach the recited ranges of the partial pressures of carbon dioxide and oxygen.

Chiang et al., teach heating precursor powders in various partial pressures of oxygen or CO/CO<sub>2</sub> mixtures (col. 6, lines 44-49). It teaches an oxygen partial pressure

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of 0.01-0.0000001 atm (col. 6, lines 44-49). The method of claim 1 wherein the CO.sub.2-containing gas of treatment (a) is air (col. 6, lines 44-50). The method of claim 1 wherein the oxygen-containing gas of treatment (b) has a partial pressure of O.sub.2 in the range of 0.1-1.0 atm (col. 6, lines 44-49).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to insert the teachings of Chiang et al., into the teachings of Li because Chiang et al., teach heating a precursor positive active material in various partial pressures of carbon dioxide and in various partial pressures of oxygen. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a preferred partial pressure, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

4. Claims 1, 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujiwara et al., U.S. Pat. No. 6,242,134 B1, in view of Chiang et al., U.S. Pat. No. 6,787,232 B1.

Fujiwara et al., teach the method of claim 1 wherein the positive electrode material is subjected simultaneously to treatments (a) and (b) at a temperature in the range of 250-650 degree C (col. 12, lines 6-22). The method of claim 12 wherein the temperature is in the range of 300-500 degree C (col. 12, lines 12-17).

Fujiwara et al., do not teach the CO.sub.2-containing gas has a partial pressure of CO.sub.2 in the range of 0.0002-0.2 atm, and the oxygen-containing gas is air with a partial pressure of O.sub.2 in the range of 0.1-1.0 atm.

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Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to insert the teachings of Chiang et al., into the teachings of Fujiwara et al., because Chiang et al., teach heating a precursor positive active material in various partial pressures of carbon dioxide and in various partial pressures of oxygen. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a preferred partial pressure, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Martin whose telephone number is 571-272-1288. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJM 